

of the Act to approve Amendment No. 2 to the proposal on an accelerated basis.

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 1 and 2 to the rule proposal. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of this filing also will be available for inspection and copying at the principal office of the PHLX. All submissions should refer to File No. SR-PHLX-95-52 and should be submitted by December 7 1995.

IV Conclusion

For the foregoing reasons, the Commission finds that the PHLX's proposal to trade Customized FCOs with customized expiration dates is consistent with the requirements of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁴ that the proposed rule change (SR-PHLX-95-52), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95-28316 Filed 11-16-95; 8:45 am]

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[Release No. 34-36467; File No. SR-PHLX-95-33]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to the Automatic Execution of National Over-the-Counter Index Options

November 8, 1995.

On May 11, 1995, the Philadelphia Stock Exchange, Inc. ("PHLX" or

"Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to limit the eligibility of National Over-the-Counter Index ("XOC") options for execution through the automatic execution ("AUTO-X") feature of the PHLX's Automated Options Market ("AUTOM") system. Specifically, the PHLX proposes to limit the AUTO-X eligibility of XOC options to XOC series where the bid is \$10 or less. Under the proposal, XOC series where the bid is greater than \$10 will no longer be AUTO-X eligible and will be executed manually.

Notice of the proposal appeared in the Federal Register on June 16, 1995.³ No comment letters were received on the proposed rule change.

AUTOM, which has operated on a pilot basis since 1988 and was most recently extended through December 31, 1995,⁴ is the PHLX's electronic order routing, delivery, execution and reporting system for equity and index options. AUTOM is an on-line system that allows electronic delivery of options orders from member firms

directly to the appropriate specialist on the Exchange's trading floor.

Certain orders are eligible for AUTOM's automatic execution feature, AUTO-X,⁵ which was approved as part of the AUTOM pilot program in 1990.⁶ AUTO-X orders are executed automatically at the disseminated quotation price on the Exchange and reported to the originating firm. Orders that are not eligible for AUTO-X are handled manually by the specialist.⁷

In 1991, the Commission approved a PHLX proposal to extend AUTO-X to all equity options.⁸ According to the PHLX, the Exchange initially implemented AUTO-X for all equity and index options.⁹ The PHLX now proposes to limit the use of AUTO-X for XOC orders to XOC series where the bid is at or below \$10; under the proposal, only those XOC series where the bid is at or below \$10 at the end of the trading day will be eligible for AUTO-X, effective the next trading day.¹⁰ The PHLX states that these lower-priced XOC series generally receive the most interest from public customers (*i.e.*, "customers" who are not associated with broker-dealer organizations or subject to discretionary authorization by associated persons of broker-dealers).¹¹

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4 (1994).

³ See Securities Exchange Act Release No. 35822 (June 8, 1995), 60 FR 31334.

⁴ See Securities Exchange Act Release No. 35183 (December 30, 1994), 60 FR 2420 (January 9, 1995) (order approving File No. SR-PHLX-94-41). See also Securities Exchange Act Release Nos. 25540 (March 31, 1988), 53 FR 11390 (order approving AUTOM on a pilot basis); 25868 (June 30, 1988), 53 FR 25563 (order approving File No. SR-PHLX-88-22, extending pilot through December 31, 1988); 26354 (December 13, 1988), 53 FR 51185 (order approving File No. SR-PHLX-88-33, extending pilot program through June 30, 1989); 26522 (February 3, 1989), 54 FR 6465 (order approving File No. SR-PHLX-89-1, extending pilot through December 31, 1989); 27599 (January 9, 1990), 55 FR 1751 (order approving File No. SR-PHLX-89-03, extending pilot through June 30, 1990); 28625 (July 26, 1990), 55 FR 31274 (order approving File No. SR-PHLX-90-16, extending pilot through December 31, 1990); 28978 (March 15, 1991), 56 FR 12050 (order approving File No. SR-PHLX-90-34), extending pilot through December 31, 1991); 29662 (September 9, 1991), 56 FR 46816 (order approving File No. SR-PHLX-91-31, permitting AUTO-X orders up to 20 contracts in Duracell options only); 29782 (October 3, 1991), 56 FR 55146 (order approving File No. SR-PHLX-91-33, permitting AUTO-X for all strike prices and expiration months); 29837 (October 18, 1991), 56 FR 36496 (order approving File No. SR-PHLX-90-03, extending pilot through December 31, 1993); 32906 (September 15, 1993), 58 FR 15168 (order approving File No. SR-PHLX-92-38, permitting AUTO-X orders up to 25 contracts in all equity options); 34920 (October 31, 1994), 59 FR 55510 (November 7, 1994) (order approving File No. SR-PHLX-94-40, codifying eligibility of index options for AUTO-X); and 33405 (December 30, 1993), 59 FR 790 (order approving File No. SR-PHLX-93-57, extending pilot through December 31, 1994).

⁵ Orders for up to 500 contracts are eligible for AUTOM and, in general, public customer orders for up to 25 contracts are eligible for AUTO-X. Currently, public customer orders in XOC options for up to 20 contracts are eligible for AUTO-X. See Securities Exchange Act Release Nos. 35782 (May 30, 1995), 60 FR 30136 (June 7, 1995) (order approving File No. SR-PHLX-95-30); and 32000 (March 15, 1993), 58 FR 15168 (March 19, 1994) (order approving File No. SR-PHLX-92-38). In USTOP 100 Index options, public customer orders for up to 50 contracts are eligible for executions through AUTO-X. See Securities Exchange Act Release No. 35781 (May 30, 1995), 60 FR 30131 (June 7, 1995) (order approving File No. SR-PHLX-95-29).

⁶ See Securities Exchange Act Release No. 27599 (January 9, 1990), 55 FR 1751 (January 18, 1990) (order approving File No. SR-PHLX-89-03).

⁷ See note 14, *infra*.

⁸ See Securities Exchange Act Release No. 28978 (March 15, 1991), 56 FR 12050 (March 21, 1991) (order approving File No. SR-PHLX-90-34).

⁹ According to the PHLX, index options became AUTO-X eligible in March 1991. In October 1994, the Exchange codified its practice of using AUTO-X for index options. See Securities Exchange Act Release No. 34920 *supra* note 4.

¹⁰ The PHLX periodically will notify members that only those XOC series where the bid is at or below \$10 at the end of the trading day will be eligible for AUTO-X. Telephone conversation between Edith Hallahan, Special Counsel, Regulatory Services, PHLX, and Yvonne Fraticelli, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, on November 7, 1995.

¹¹ For example, the PHLX states that on trade date January 25, 1995, 40 XOC transactions occurred, 38 of which involved a customer. Only two of these trades involved execution prices greater than \$20, while 10 trades were above \$10 but less than \$20; 28 customer trades were below \$10. The 28

Continued

¹⁴ 15 U.S.C. 78s(b)(2) (1988).

¹⁵ 17 CFR 200.30-3(a)(12) (1994).

Accordingly, the Exchange believes that these series are the most appropriate for automatic execution.

According to the PHLX, the proposal is also a response to recent volatility in the over-the-counter ("OTC") markets, which has made it increasingly difficult for specialists and market makers to monitor quotations to reflect changes in the markets for the underlying securities. The PHLX believes that market makers and specialists require sufficient time to adjust their quotations, particularly because participation in AUTOM and AUTO-X is mandatory.

In addition, the PHLX states that it is consistent with the practices of other options exchanges to limit automatic execution eligibility to certain series, such as near-term, at-the-money series.¹² Thus, for competitive reasons, the Exchange seeks to create a level playing field with respect to automatic execution parameters.

The Exchange notes that the proposal does not affect the AUTO-X eligibility of any other equity or index option. The PHLX intends to clearly communicate to its membership and AUTOM users, on a periodic basis, the proposed AUTO-X limitation for XOC options through an information circular.

The PHLX believes that the proposal is consistent with Section 6(b) of the Act, in general, and, in particular, with Section 6(b)(5), in that it is designed to promote just and equitable principles of trade and to prevent fraudulent and manipulative acts and practices.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) in that the proposal is designed to promote just and equitable principles of trade and to protect investors and the public interest.¹³ Specifically, the Commission believes that the proposal strikes a reasonable balance between preserving the benefits of AUTO-X for the XOC series traded most frequently by public consumers and providing PHLX market makers and specialists with sufficient time to update their quotations in higher-priced XOC series. In this regard, the PHLX has stated that most public customer orders in XOC options are for series where the bid is at or below \$10. Thus, by maintaining the AUTO-X eligibility of such XOC orders, the

proposal ensures that public customer orders in XOC options where the bid is at or below \$10 will continue to receive the benefits of AUTO-X, including the guaranteed execution of public customer orders for up to 20 contracts in such XOC options at the displayed quote. Despite the change in AUTO-X eligibility for certain XOC series, the Commission notes that under PHLX rules public customer orders in XOC series where the bid is above \$10 will continue to be guaranteed the best quoted bid or offer for at least 10 contracts.¹⁴

The continued availability of AUTO-X for those XOC series where the bid is \$10 or less should help to maintain the depth and liquidity of the market for XOC options and minimize the number of XOC transactions that require manual execution on the Exchange floor, thereby providing the opportunity for increased efficiency in the handling of non-AUTOM orders. At the same time, requiring manual execution of orders in XOC series where the bid is greater than \$10 should help to ensure that market makers and specialists have sufficient time to update their quotations to reflect changes in the markets for the underlying securities before executing an option order. Accordingly, the proposal should address the problems associated with the high volatility of the securities comprising the XOC, which has resulted in the need for PHLX specialists to frequently change quotes in the XOC.¹⁵

The Commission notes that the Chicago Board Options Exchange, Inc. ("CBOE") limits the availability of automatic execution to certain options series. Specifically, on the CBOE only the four most active puts and calls in the two near-term months in Nasdaq 100 Index options, Standard & Poor's ("S&P") 500 Index options, and S&P 100 Index options are eligible for the CBOE's Retail Automated Execution System

("RAES").¹⁶ The Commission is not aware of any significant negative comments associated with the CBOE's RAES policy. Accordingly, the Commission believes that it is reasonable for the PHLX, like the CBOE, to limit the use of automatic execution to those series most actively used by public customers.¹⁷

Finally, the PHLX has represented that it will communicate the change in AUTO-X eligibility to its members and AUTOM users through an information circular prior to implementing the rule. The PHLX also will periodically notify members about the new rule. The Commission believes that this will provide PHLX members and AUTOM users with adequate notice of the change in the availability of AUTO-X for XOC options.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁸ that the proposed rule change (File No. SR-PHLX-95-33) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Margaret H. McFarland,
Deputy Secretary.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular 21-32A, Control of Products and Parts Shipped Prior to Type Certificate Issuance

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice announces the availability of proposed Advisory Circular (AC) 21-32A, Control of Products and Parts Shipped Prior to Type Certificate Issuance, for review and comments. The proposed AC 21-32A provides information and guidance concerning an acceptable means, but not the only means, of demonstrating compliance with the requirements of the Federal Aviation Regulations (FAR) part 21, Certification Procedures for Products and Parts.

¹⁶ Telephone conversation between Dan Hustad, CBOE, and Yvonne Fraticelli, Attorney, Options Branch, Division, Commission, on July 7, 1995.

¹⁷ The Commission would be concerned about any proposal that would limit the availability of automatic execution systems to only out-of-the-money series. See The Division of Market Regulation, The October 1987 Market Break (February 1988) at 8-22.

¹⁸ 15 U.S.C. 78s(b)(2) (1984).

¹⁹ 17 CFR 200.30-3(a)(12) (1994).

customer trades represented 439 contracts out of a total of 531 contracts.

¹² See note 17, *infra*, and accompanying text.

¹³ 15 U.S.C. § 78f(b) (1988 & Supp. V 1993).

¹⁴ The Commission notes that under PHLX Rule 1033(a), "Bids and Offers—Premium," specialists and Registered Options Traders are required to fill public customer orders to a minimum depth of 10 contracts at the best quoted bid or offer. As a matter of policy, public customer orders in XOC options where the bid is at or below \$10 that are executed manually will be filled to a depth of 20 contracts at the best quoted bid or offer.

¹⁵ The Commission notes that it considered the volatility of the XOC, in addition to other factors, in approving a PHLX proposal to widen the maximum quote spread parameters for higher-priced XOC options. See Securities Exchange Act Release No. 34781 (October 3, 1994), 59 FR 51467 (October 11, 1994) (order approving File No. SR-PHLX-94-28) (approving quote spreads of \$2.00 for XOC options with bids of \$20.00 to less than \$40.00 and \$3.00 for XOC options with bids of \$40.00 or more).